

### ***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-8, 22 and 23 are pending in the application, with claim 1 being the independent claim. Claim 19 has been cancelled. No new matter is added to the present application by the foregoing amendments, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

### ***Rejection under 35 U.S.C. § 112***

In the Office Action, at page 2, section 3, claims 1-8, 19, 22 and 23 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. By the foregoing amendment Applicants have cancelled claim 19, thus rendering its rejection moot. Applicants respectfully traverse the rejection as it may apply to the remaining claims.

The rejection states:

With regard to claim 5, how does one know that you are obtaining the heterologous gene product when the commensal *Neisseria* cells are suspended in detergent and then incubate the suspension so as to extract a protein fraction from the cell? Does Applicant intend that any protein extracted by suspending in detergent and subsequent incubation will be the heterologous gene product; commensal *Neisseria* normally have proteins that are extracted via use of detergent incubation. What protein is being extracted from the *Neisseria* cell in step (iii) and (iv)?

Office Action at 2. Applicants respectfully point out that the method of claim 5 is clear on its face.

The Examiner's concern appears to be that commensal *Neisseria* proteins will be extracted by use of a detergent and will be part of the extracts in steps (iii) and (iv). While such commensal *Neisseria* proteins may certainly be part of the extract obtained in step (iii), they will be removed in step (iv) which requires "isolating the heterologous gene product." This claim is not indefinite.

The Examiner further asks whether, with regard to claims 6-8, Applicants "intend that the heterologous gene product will be the only proteins isolated that have the specifically recited molecular weights." Applicants respectfully point out that the term "protein fraction" has antecedent basis in claim 5, step (iii). Thus, the "protein fraction" is composed of multiple proteins including the heterologous gene product and the commensal *Neisseria* proteins. Thus, claims 6-8 are not indefinite.

The Examiner further inquires whether the proteins recited in claim 4 (transferrin binding protein, a Cu,Zn-SOD, an NspA, a porin, an outer membrane protein and fragments thereof) have these particular molecular weights. Applicants note that claim 4 is dependent on claim 3 which is dependent on claim 1. None of these claims require that the heterologous gene product have any particular molecular weight. Thus, claim 4 is clear on its face.

In view of the foregoing amendment and explanations, Applicants respectfully request that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

#### ***Double Patenting Rejection***

In the Office Action at page 3, section 4, claims 19 and 23 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 39-41 of co-pending U.S. Patent Application No. 10/185,769. By the foregoing amendment, Applicants have cancelled claim 19, thus

rendering its rejection moot. Applicants respectfully traverse the rejection as it may apply to claim 23.

Solely in an effort to expedite the allowance of the above-captioned application, Applicants herewith file a terminal disclaimer in compliance with 37 C.F.R. 1.321(c). Therefore, Applicants respectfully request that the double patenting rejection be withdrawn.

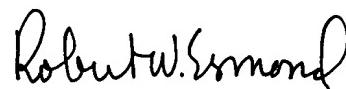
### ***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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